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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
NICHOLAS POULMENTIS, *on behalf of himself and
all others similarly situated,*

Plaintiff,

Case No. 19-cv-05284-ENV-SMG

v.

CHRISTOS KOUVAROS and TATIANA DIMAKIS

Defendants.

-----X

ANSWER TO AMENDED COMPLAINT

Defendant Christos Kouvaros (“Individual Defendant”) by and through his undersigned attorneys, respectfully answers the Amended Complaint (Collective Action under 29 U.S.C. § 216(b)) (the “Amended Complaint”) as follows:

NATURE OF ACTION

1. Individual Defendant denies the allegations set forth in Paragraph 1 of the Amended Complaint.
2. Individual Defendant denies the allegations set forth in Paragraph 2 of the Amended Complaint.
3. Individual Defendant denies the allegations set forth in Paragraph 3 of the Amended Complaint.

4. Individual Defendant denies the allegations set forth in Paragraph 4 of the Amended Complaint.

5. Individual Defendant denies the allegations set forth in Paragraph 5 of the Amended Complaint.

6. Individual Defendant denies the allegations set forth in Paragraph 6 of the Amended Complaint.

7. Individual Defendant denies the allegations set forth in Paragraph 7 of the Amended Complaint.

8. Individual Defendant denies the allegations set forth in Paragraph 8 of the Amended Complaint.

9. Individual Defendant denies the allegations set forth in Paragraph 9 of the Amended Complaint.

10. Paragraph 10 of the Amended Complaint sets forth legal conclusions and questions of law to which no response is required.

11. Paragraph 11 of the Amended Complaint sets forth legal conclusions and questions of law to which no response is required.

JURISDICTION AND VENUE

12. Paragraph 10 of the Amended Complaint sets forth legal conclusions and questions of law to which no response is required.

13. Individual Defendant denies the allegations set forth in Paragraph 13 of the Amended Complaint.

PARTIES

14. Individual Defendant admits the allegations set forth in Paragraph 14 of the Amended Complaint.

15. Individual Defendant denies the allegations set forth in Paragraph 15 of the Amended Complaint.

16. Paragraph 16 of the Amended Complaint sets forth legal conclusions and questions of law to which no response is required.

17. Individual Defendant denies the allegations set forth in Paragraph 17 of the Amended Complaint.

18. Individual Defendant denies the allegations set forth in Paragraph 18 of the Amended Complaint.

19. Individual Defendant denies the allegations set forth in Paragraph 19 of the Amended Complaint.

FACTUAL ALLEGATIONS

20. Individual Defendant denies the allegations set forth in Paragraph 20 of the Amended Complaint.

21. Individual Defendant denies the allegations set forth in Paragraph 21 of the Amended Complaint.

22. Individual Defendant denies the allegations set forth in Paragraph 22 of the Amended Complaint.

23. Individual Defendant denies the allegations set forth in Paragraph 23 of the Amended Complaint.

24. Individual Defendant denies the allegations set forth in Paragraph 24 of the Amended Complaint.

25. Individual Defendant denies the allegations set forth in Paragraph 25 of the Amended Complaint.

26. Individual Defendant denies the allegations set forth in Paragraph 26 of the Amended Complaint.

27. Individual Defendant denies the allegations set forth in Paragraph 27 of the Amended Complaint.

28. Individual Defendant denies the allegations set forth in Paragraph 28 of the Amended Complaint.

29. Individual Defendant denies the allegations set forth in Paragraph 29 of the Amended Complaint.

30. Individual Defendant denies the allegations set forth in Paragraph 30 of the Amended Complaint.

31. Individual Defendant denies the allegations set forth in Paragraph 31 of the Amended Complaint.

32. Individual Defendant denies the allegations set forth in Paragraph 32 of the Amended Complaint.

33. Individual Defendant denies the allegations set forth in Paragraph 33 of the Amended Complaint.

34. Individual Defendant denies the allegations set forth in Paragraph 34 of the Amended Complaint.

35. Individual Defendant denies the allegations set forth in Paragraph 35 of the Amended Complaint.

36. Individual Defendant denies the allegations set forth in Paragraph 36 of the Amended Complaint.

37. Individual Defendant denies the allegations set forth in Paragraph 37 of the Amended Complaint.

38. Individual Defendant denies the allegations set forth in Paragraph 38 of the Amended Complaint.

39. Individual Defendant denies the allegations set forth in Paragraph 39 of the Amended Complaint.

40. Individual Defendant denies the allegations set forth in Paragraph 40 of the Amended Complaint.

41. Individual Defendant denies the allegations set forth in Paragraph 41 of the Amended Complaint.

42. Individual Defendant denies the allegations set forth in Paragraph 42 of the Amended Complaint.

43. Individual Defendant denies the allegations set forth in Paragraph 43 of the Amended Complaint.

44. Individual Defendant denies the allegations set forth in Paragraph 44 of the Amended Complaint.

45. Individual Defendant denies the allegations set forth in Paragraph 45 of the Amended Complaint.

46. Individual Defendant denies the allegations set forth in Paragraph 46 of the Amended Complaint.

47. Individual Defendant denies the allegations set forth in Paragraph 47 of the Amended Complaint.

48. Individual Defendant denies the allegations set forth in Paragraph 48 of the Amended Complaint.

49. Individual Defendant denies the allegations set forth in Paragraph 49 of the Amended Complaint.

50. Individual Defendant denies the allegations set forth in Paragraph 50 of the Amended Complaint.

51. Individual Defendant denies the allegations set forth in Paragraph 51 of the Amended Complaint.

52. Individual Defendant denies the allegations set forth in Paragraph 52 of the Amended Complaint.

53. Individual Defendant denies the allegations set forth in Paragraph 53 of the Amended Complaint.

54. Individual Defendant denies the allegations set forth in Paragraph 54 of the Amended Complaint.

55. Individual Defendant denies the allegations set forth in Paragraph 55 of the Amended Complaint.

56. Individual Defendant denies the allegations set forth in Paragraph 56 of the Amended Complaint.

57. Individual Defendant denies the allegations set forth in Paragraph 57 of the Amended Complaint.

58. Individual Defendant denies the allegations set forth in Paragraph 58 of the Amended Complaint.

59. Individual Defendant denies the allegations set forth in Paragraph 59 of the Amended Complaint.

60. Individual Defendant denies the allegations set forth in Paragraph 60 of the Amended Complaint.

FIRST CAUSE OF ACTION

61. Defendants repeat and reiterate each and every response set forth in paragraphs “1 through 60” above as if more fully set forth herein in full.

62. Individual Defendant denies the allegations set forth in Paragraph 62 of the Amended Complaint.

63. Individual Defendant denies the allegations set forth in Paragraph 63 of the Amended Complaint.

64. Individual Defendant denies the allegations set forth in Paragraph 64 of the Amended Complaint.

65. Individual Defendant denies the allegations set forth in Paragraph 65 of the Amended Complaint.

66. Individual Defendant denies the allegations set forth in Paragraph 66 of the Amended Complaint.

67. Individual Defendant denies the allegations set forth in Paragraph 67 of the Amended Complaint.

SECOND CAUSE OF ACTION

68. Defendants repeat and reiterate each and every response set forth in paragraphs “1 through 67” above as if more fully set forth herein in full.

69. Individual Defendant denies the allegations set forth in Paragraph 69 of the Amended Complaint.

70. Individual Defendant denies the allegations set forth in Paragraph 70 of the Amended Complaint.

71. Individual Defendant denies the allegations set forth in Paragraph 71 of the Amended Complaint.

THIRD CAUSE OF ACTION

72. Defendants repeat and reiterate each and every response set forth in paragraphs “1 through 71” above as if more fully set forth herein in full.

73. Individual Defendant denies the allegations set forth in Paragraph 73 of the Amended Complaint.

74. Individual Defendant denies the allegations set forth in Paragraph 74 of the Amended Complaint.

75. Individual Defendant denies the allegations set forth in Paragraph 75 of the Amended Complaint.

76. Individual Defendant denies the allegations set forth in Paragraph 76 of the Amended Complaint.

FOURTH CAUSE OF ACTION

77. Defendants repeat and reiterate each and every response set forth in paragraphs “1 through 76” above as if more fully set forth herein in full.

78. Individual Defendant denies the allegations set forth in Paragraph 78 of the Amended Complaint.

79. Individual Defendant denies the allegations set forth in Paragraph 79 of the Amended Complaint.

80. Individual Defendant denies the allegations set forth in Paragraph 80 of the Amended Complaint.

FIFTH CAUSE OF ACTION

81. Defendants repeat and reiterate each and every response set forth in paragraphs “1 through 80” above as if more fully set forth herein in full.

82. Individual Defendant denies the allegations set forth in Paragraph 82 of the Amended Complaint.

83. Individual Defendant denies the allegations set forth in Paragraph 83 of the Amended Complaint.

84. Individual Defendant denies the allegations set forth in Paragraph 84 of the Amended Complaint.

SIXTH CAUSE OF ACTION

85. Defendants repeat and reiterate each and every response set forth in paragraphs “1 through 84” above as if more fully set forth herein in full.

86. Individual Defendant denies the allegations set forth in Paragraph 86 of the Amended Complaint.

SEVENTH CAUSE OF ACTION

87. Defendants repeat and reiterate each and every response set forth in paragraphs “1 through 87” above as if more fully set forth herein in full.

88. Individual Defendant denies the allegations set forth in Paragraph 89 of the Amended Complaint.

89. Individual Defendant denies the allegations set forth in Paragraph 80 of the Amended Complaint.

EIGHTH CAUSE OF ACTION

90. Defendants repeat and reiterate each and every response set forth in paragraphs “1 through 90” above as if more fully set forth herein in full.

91. Individual Defendant denies the allegations set forth in Paragraph 92 of the Amended Complaint.

92. Individual Defendant denies the allegations set forth in Paragraph 93 of the Amended Complaint.

FIRST AFFIRMATIVE DEFENSE

1. The Complaint fails to state a claim, in whole or in part, upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

2. Plaintiff's claims and the claims of the putative collective action members are barred in whole or in part because, at all times relevant hereto, Individual Defendant has acted in good faith and has not violated any rights that may be secured to Plaintiff or the putative collective action members under any federal, state, or local laws, rules, regulations or guidelines.

THIRD AFFIRMATIVE DEFENSE

3. Supplemental or other jurisdiction should not be exercised over Plaintiff's Federal and New York Labor Law claims.

FOURTH AFFIRMATIVE DEFENSE

4. Assuming arguendo, Individual Defendant violated any provision of the FLSA and/or New York Labor Law, such as violation was not pursuant to a uniform policy or plan.

FIFTH AFFIRMATIVE DEFENSE

5. Plaintiff's claims and those of the putative collective action members they purport to represent are barred in whole or in part by the doctrines of waiver, estoppel, laches, res judicata or ratification.

SIXTH AFFIRMATIVE DEFENSE

6. Plaintiff's Amended Complaint and each and every purported claim alleged therein, individually and on behalf of any purportedly similarly-situated individuals, is barred because at all times relevant hereto, the answering Individual Defendant did not require Plaintiff or any purportedly similarly-situated individuals to work any hours without appropriate compensation or otherwise, and Individual Defendant otherwise did not know or have reason to know that Plaintiff or any purportedly similarly-situated individuals worked any hours without appropriate compensation or otherwise.

SEVENTH AFFIRMATIVE DEFENSE

7. Plaintiff and the putative collective action members they purport to represent failed to exercise reasonable diligence to mitigate their harm/damages (if any were in fact suffered, which is expressly denied) and, therefore are barred from recovering any damages or any damages awarded to them should be reduced accordingly.

EIGHTH AFFIRMATIVE DEFENSE

8. The relief sought by Plaintiff and the putative collective action members they purport to represent is barred, in whole or in part, because, at all relevant times, Individual Defendant's acts were not willful and Individual Defendant acted in good faith with respect to Plaintiff and the putative collective action members and had reasonable grounds to believe that his conduct did not violate any applicable law.

NINTH AFFIRMATIVE DEFENSE

9. Plaintiff has not satisfied and cannot satisfy the requirement of certification of any type of collective action under the FLSA, the Federal Rules of Civil Procedure and/or any state law, whichever may be applicable, and this action may not be properly maintained as any type of collective action.

TENTH AFFIRMATIVE DEFENSE

10. The answering Individual Defendant is entitled to a setoff for amounts Plaintiff and any purportedly similarly situated individuals owe for receipt of any wages, compensation, money and/or other benefits to which they were not entitled and/or did not earn.

ELEVENTH AFFIRMATIVE DEFENSE

11. The answering Individual Defendant's actions with reference to Plaintiff and any purportedly similarly situated individuals were taken in good faith exercise of their professional judgment, with the honest, reasonable belief that such actions and conduct were warranted by the facts and circumstances known to them at the time.

TWELFTH AFFIRMATIVE DEFENSE

12. Individual Defendant presently has insufficient knowledge or information upon which to form a belief as to whether he has or may have additional, yet unstated defenses. Individual Defendant reserves the right to assert additional defenses in the event his investigation or discovery indicates that additional defenses are appropriate.

[Remainder of page intentionally left blank.]

WHEREFORE, Defendants pray for judgment against Plaintiff as follows:

1. Dismissing the Plaintiff's Amended Complaint;
2. For attorneys' fees and costs of suit incurred herein; and
3. For such other and further relief as the Court deems just and proper.

Dated: New York, New York
February 12, 2020

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Via ECF

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